

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED STATES OF AMERICA §
§
V. § CASE NO.2:10-CR-5-4 (TJW-CE)
§
ISACHAR MONCADA GUERRERO

**FINDINGS OF FACT AND RECOMMENDATION ON GUILTY PLEA
BEFORE THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636(b), this matter has been referred by the District Court for administration of a plea of guilty and allocution under Rule 11 of the Federal Rules of Criminal Procedure.

On September 8, 2011, this cause came before the undersigned United States Magistrate Judge for a plea of guilty and allocution of the defendant in a third superseding indictment charging the defendant in Count 1 with a violation of 21 U.S.C. § 846, conspiracy to possess with intent to distribute heroin and cocaine. After conducting said proceeding in the form and manner prescribed by FED. R. CRIM. P. 11, the undersigned finds that:

- a. the defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea and Allocution in this cause by a United States Magistrate Judge, subject to a final approval and imposition of sentence by the District Court;
- b. the defendant and the government have entered into a plea agreement which has been filed and disclosed in open court pursuant to FED. R. CRIM. P. 11(c)(2);
- c. the defendant is fully competent and capable of entering an informed plea, that the defendant is aware of the nature of the charges and the consequences of the plea, and that the plea

of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense; and

d. the defendant understands his constitutional and statutory rights and wishes to waive these rights, including the right to a trial by jury and the right to appear before a United States District Judge.

IT IS THEREFORE RECOMMENDED that the District Court accept the Plea Agreement and the Guilty Plea of the defendant and that Isachar Moncada Guerrero should be finally adjudged guilty of that offense.

On September 30, 2011, the parties filed a Joint Notice of Waiver of Time to Respond (Dkt No. 292), therefore the District Judge may act on this matter immediately.

SIGNED this 30th day of September, 2011.



Charles Everingham IV
CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE